without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.

In this regard, the Commission notes that the Exchanges' hedge exemption programs have operated on a pilot basis since 1988 and that the Exchanges have not experienced any significant difficulties with the pilots since their inception or observed any market disruptions resulting from the increased positions. In addition, the Exchanges have submitted reports to the Commission describing, among other things, the frequency with which the exemptions have been utilized, the types of investors using the exemptions, the size of the positions assumed pursuant to the programs, and the market impact of the programs. The reports indicate that the Exchanges have not observed any negative impact on their markets as a result of the hedge exemption programs. Finally, the Exchanges have established surveillance procedures designed to monitor compliance with the position limit hedge exemption programs. The Commission expects the Exchanges to continue to monitor utilization of the hedge exemptions to ensure compliance with the programs' requirements.

With regard to the equity option hedge exemption, the Commission believes, as it has concluded in the past,[14] that the exemption will not disrupt the options or equity markets or substantially increase the possibility of manipulation in the underlying stocks or options. In this regard, the Commission notes that the position and exercise limit exemption is limited to accounts that have established one of four hedged positions. Moreover, market disruption concerns are lessened because any option positions in excess of current position limits must be hedged fully with an offsetting stock position on a one-for-one basis; thus, the holder of the options position would not be required to enter the market to buy or sell the stock if the options were exercised or assigned. The Commission also believes that a maximum position of double the existing position and exercise limits will help to ensure that any potential market disruptions are minimal.

With regard to the broad-based index option hedge exemption programs, the Commission believes, as it has concluded previously,[15] that the programs will allow more effective hedging of stock portfolios and may increase the depth and liquidity of the stock index options market. In this regard, public customers with long or short stock portfolios (or instruments convertible into such securities) will be able to utilize the broad-based index hedge exemption, thereby making an alternative hedging technique more available to such customers and facilitating their use of index options to hedge their portfolios, rather than financially equivalent index futures products.

As noted above, the broad-based index option hedge exemption applies only to public customers and each request for the exemption must be specifically approved by the appropriate Exchange. This should ensure that the hedges are appropriate for the position being taken and in compliance with Exchange rules.

In addition, the Commission notes that the broad-based index option hedge exemptions have additional safeguards that will make it difficult to use the exempted positions to disrupt or manipulate the market. In this regard, the qualified stock portfolio must be broad-based, and correspond in value to the value of the options hedge so that the increased positions could not be used in a leveraged manner. Both the options and stock positions must be initiated and liquidated in an orderly manner. The requirement that a reduction in the options position must occur at or before the corresponding reduction in the stock portfolio position should ensure that the stock transactions are not used to impact the market so as to benefit the options position. Moreover, because the exemption may not be used for arbitrage in stock baskets and overlying stock index options, the broad-based index option hedge exemption should not exacerbate stock market volatility. Finally, the Commission notes that the index option hedge exemption applies only to options on broad-based indexes, where the potential for manipulation is minimal and thus regulatory concerns are decreased.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule changes (SR–Amex–95–13, SR–CBOE–95–13, SR–NYSE–95–04, SR–PSE–95–09, and SR–PHLX–95–10) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12690 Filed 5–23–95; 8:45 am]

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[14] *See* Securities Exchange Act Release No. 25738, *supra* note 6.

[15] *See* Securities Exchange Act Release Nos. 32903 and 32900, *supra* note 7.

[16] 15 U.S.C. 78s(b)(2)(1982).

[17] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35725; File No. SR–CBOE–95–15]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Telephones at the S&P 100 Index Option Trading Post on the Floor of the Exchange

May 17, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 12, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule change

The CBOE proposes to treat as a rule of the Exchange the conditions governing the use of member-owned and Exchange-owned telephones located at the S&P 100 Index option (''OEX'') trading post on the floor of the Exchange. The text of the proposed rule change is available at the Office of the Secretary, the CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for,the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis, for, the Proposed Rule Change

The purpose of the proposed rule change is to apply the policy currently governing the use of telephones at equity option trading posts[1] to the member-owned or Exchange-owned telephones at the OEX trading post on the floor of the Exchange. With the exception of the prohibition on the use of telephone at the OEX trading posts to receive incoming calls, the Exchange represents that the telephone policy described below is substantively identical to the policy approved by the Commission for the use of telephones at equity option trading posts on the floor of the CBOE.[2]

Exchange Rule 6.23 prohibits members from establishing or maintaining any telephone or other wire communications between their offices and the Exchange floor, and it authorizes the Exchange to direct the discontinuance of any communication facility terminating on the Exchange floor. Pursuant to Rule 6.23, the Exchange is instituting this policy for use at the OEX trading post. The Exchange believes that the proposed rule change will allow market-makers to obtain and transmit information more efficiently which may result in benefits to investors by improving the execution of orders.

The proposed rule change also imposes user fees on members who are approved to use Exchange-installed telephones located at the OEX trading post. This action is being taken pursuant to CBOE Rule. 2.22, which permits the Exchange to impose fees on members for the use of Exchange facilities or for any services or privileges granted by the Exchange.

As with the use of telephones at the equity trading posts, the Exchange has determined to file this policy for the use of telephones at the OEX trading post and make it a formal rule of the Exchange. Accordingly, the Exchange undertakes that it will surveil for violations of the policy and that members will be subject to formal disciplinary proceedings for violations of the policy. The conditions imposed by the Exchange's policy include:

1. The telephones may not be used to receive orders, although quotes that have been publicly disseminated pursuant to CBOE Rule 6.43 may be provided.

2. Members may give their clerks their PIN access code. Although both members and clerks may use the telephones, members will have priority. Each member will be responsible for all calls made using that Member's PIN access code.

3. Headsets will not be permitted on the telephones in the OEX post pit. Portable or cellular telephones also will not be permitted.

4. Clerks will not be permitted to establish a base of operations utilizing telephones at the OEX post.

5. Members and their clerks using the telephones consent to the Exchange requiring that any telephone or line be subject to tape recording.

6. The telephones will be used for voice service only. Data services (PC's, fax, etc.) will remain subject to Exchange consent under a separate program.

7. Incoming calls are not permitted on the telephones at the OEX post. There will be no restrictions on where a Member may call.

Upon the approval of these conditions as rules of the Exchange, the Exchange will publish a Regulatory Circular, substantially in the form filed by the CBOE with the Commission, in order to inform members that these conditions are rules, and that violations may lead to disciplinary proceedings.

By restricting floor telephones to hard-wired devices only and not allowing cellular, portable, or headset telephones, the Exchange believes it will better be able to monitor and control telephone usage on the floor. In addition, the Exchange believes that currently available technology would not permit a large number of portable or cellular telephones to be used in the environment of the trading floor without significant deterioration or interruption of service.

As with the use of telephones at the equity trading posts, the Exchange intends to police compliance with these conditions by means of its customary floor surveillance procedures, including reliance on surveillance by floor officials and Exchange employees. In addition, the Exchange has in place a surveillance sharing agreement with the Chicago Mercantile Exchange (''CME'') whereby transaction information is continually made available to the CBOE regarding futures transaction activity by CBOE members that is above certain defined parameters. In addition, the Exchange also receives surveillance information through its participation in the Intermarket Surveillance Group (''ISG'').[3]

Because the telephone policy does not restrict where a member may call, the telephones may be used to place orders in equity of futures markets,[4] which raises the possibility of orders being entered based on non-public information. Because the S&P 100 index, on which OEX options are based, is a capitalization-weighted index of 100 different ''blue chip'' stocks, however, the Exchange believes that non-public information is not likely to be significant in predicting future changes in the value of the OEX. In any event, the Exchange believes that the surveillance procedures it has in place will detect and deter any attempts at manipulation through the using of OEX options.

The fees the Exchange will charge for the use of the telephones will generally be the same as those charged for the use of telephones at the equity option trading posts. Specifically, local calls over Exchange telephones will be charged at 10 cents per minute. Long distance calls over Exchange telephones will be charged at a rate 25% greater than the Exchange's direct costs. In addition, the Exchange will charge a $5 monthly fee for the use of the telephones located at the OEX trading post.

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, in that the proposal is designed to improve communications to and from the Exchange's trading floor in a manner that prevents fraudulent and manipulative acts and practices, promotes just and equitable principles of trade, perfects the mechanism of a free and open market, and protects investors and the public interest.

In addition, the Exchange believes the proposed rule change with respect to

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[1] *See* Securities Exchange Act Release No. 33701 (March 2, 1994), 59 FR 113336 (March 10, 1994).

[2] *Id.*

[3] The ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the American Stock Exchange, Inc.; the Boston Stock Exchange, Inc.; the CBOE; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc. (''NASD''); the New York Stock Exchange, Inc.; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[4] This telephone policy also allows members to use the floor telephones located at the OEX trading post for the purpose of providing quotations on OEX options. In use telephones for this purpose, the CBOE represents that members may only provide quotations that have been publicly disseminated pursuant to CBOE Rule 6.43.

the fees to be charged by the CBOE in connection with the telephones located at the OEX trading post is consistent with Section 6(b)(4) of the Act in that it is designed to provide for the equitable allocation of reasonable dues, fees, and charges among CBOE members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from May 12, 1995, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder.[5]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–15 and should be submitted by June 14, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

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[5] 17 CFR 240.19b–4(e)(6) (1994).

[6] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35736; File No. SR–DTC–95–08]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees Charged for Various Services

May 18, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 25, 1995, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to adjust DTC's fee schedule for various services.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change, which will be effective for services provided on and after May 1, 1995, is to adjust the fees charged for various services to bring them closer to or to their respective estimated service costs for 1995.

Continuing DTC's annual practice of aligning service fees with estimated service costs, DTC's Board of Directors completed a review of its unit service costs for 1995 and adjusted many DTC service fees accordingly. The 1995 fee schedule has been set to yield $11.4 million less in operating revenue on an annual basis than the 1994 fee schedule would have yielded. This will mark the ninth consecutive year in which DTC has not had to increase its overall schedule of service fees to users. Moreover, for the fourth consecutive year a significant fee reduction will be implemented.[4]

Section 17A(b)(3)(D) of the Act [5] requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. DTC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(D) of the Act because its new fee schedule allocates its fees more equitably among its participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

DTC informed participants and other users of its services of the proposed fee

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The revised fee schedule is available for review in the Annex to Exhibit A of File No. SR–DTC–95–08. The file is available for review in the Commission's Public Reference Room and at the principal office of DTC.

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] While some service fees were increased, others remained unchanged or were decreased making the net result an overall decrease in service fees. Telephone conversation between Piku Thakkar, Attorney, DTC, and Margaret J. Robb, Attorney, Division of Market Regulation, Commission (April 27, 1995).

[5] 15 U.S.C. 78q–1(b)(3)(D) (1988).